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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/595,043	06/15/2000	Mark Dehdashtian	VAS-5512	9147

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EXAMINER

BARRETT, THOMAS C

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 06/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K.

Office Action Summary

Application No.

09/595,043

Applicant(s)

DEHDASHTIAN ET AL.

Examiner

Thomas C. Barrett

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-71 is/are pending in the application.
- 4a) Of the above claim(s) 47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35-46 and 48-71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11. 6) ☐ Other:

Art Unit: 3738

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-34 have been considered but are moot in view of the new ground(s) of rejection.

Petition

The petition to change the order of inventor names has been entered, but no decision had been made by the date of mailing of this office action.

Election/Restrictions

Newly submitted claim 47 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Species V has reinforcing wires across the length of the tubular graft body.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 47 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Art Unit: 3738

Claims 53-58 and 69 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification is non-enabling for "the first leg of the second bifurcated prosthesis is inserted through the aperture of the first bifurcated prosthesis, and the first leg of the first bifurcated prosthesis is inserted through the aperture of the second bifurcated prosthesis."

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 53-58 and 69-70 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear whether the limitation "the first leg of the second bifurcated prosthesis is inserted through the aperture of the first bifurcated prosthesis, and the first leg of the first bifurcated prosthesis is inserted through the aperture of the second bifurcated prosthesis" is even possible.

Claim 70 is indefinite because it is unclear how the first prosthesis can be first **secured** within the body vessel and the second tubular body portion then positioned external to the first body portion.

Art Unit: 3738

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

And

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 35-41, 43-44, 50-52, 59-63, 66-68, and 70-71 are rejected under 35 U.S.C. 102(b) as being anticipated by Frid (WO 98/31303). Frid discloses an intraluminal device comprising: two tubular bifurcated grafts having bodies of similar length that overlap entirely when in a patient (Fig. 5). The grafts can be both self-expanding and balloon expandable (p 17, lines 20-23). The grafts have reinforcing frames made of interconnected elements (p 12, lines 7-25).

Claims 35, 45-46, 59 and 64-65 are rejected under 35 U.S.C. 102(e) as being anticipated by Cox et al. (5,824,040). Cox et al. discloses an intraluminal device comprising: two tubular grafts having bodies that overlap when in a patient, one body thicker than the other (Fig. 18B).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3738

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 48-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frid (WO 98/31303) as above in view of Kleshinki (5,755,778). Frid discloses an intraluminal device comprising two tubular grafts however Frid fails to disclose the grafts having an adhesive that can stimulate cellular ingrowth. Kleshinki teaches impregnating the grafts with fibrin, which acts as a bio-adhesive (col. 3, lines 18-28). It would have been obvious to one of ordinary skill in the art to combine the teaching of impregnating the grafts with fibrin, as taught by Kleshinki, to an intraluminal device comprising two tubular grafts as per Frid, in order to act as a bio-adhesive.

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frid (WO 98/31303) as above in view of White et al. (WO 95/08966) as cited in the prior action. Frid discloses an intraluminal device comprising two tubular grafts however Frid fails to disclose the grafts having separate spaced apart wires. White et al. teaches tubular grafts with separate spaced apart wires (FIG.2), which assists in placing the grafts, as the wires are X-ray detectable (p 5, lines 32-34). It would have been obvious to one of ordinary skill in the art to combine the teaching of separate spaced apart wires, as taught by White et al., to an intraluminal device comprising two tubular grafts as per Frid, in order to assist in placing the grafts.

Art Unit: 3738

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas C. Barrett whose telephone number is (703) 308-8295. The examiner can normally be reached Tuesday-Friday between 9:00 A.M. and 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (703) 308-2111. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3580 for regular communications.

Art Unit: 3738

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 0850.



Thomas Barrett
June 12, 2003



David H. Willse
Primary Examiner